

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHERYL KINDER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:04CV1518 HEA
)	
AMY WILCOX,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Defendant's Motion for Sanctions and to Strike an Expert Witness, [#19]. Plaintiff has failed to file a response within the time provided by this Court's Local Rules. For the reasons set forth below, Defendant's motion is granted in part and denied in part.

Plaintiff originally filed this cause of action in the Missouri Circuit Court in the City of St. Louis based on injuries she sustained in an automobile accident. On November 3, 2004, Defendant removed the suit to this Court based on diversity jurisdiction pursuant to 28 U.S.C. 1332.

Defendant filed the instant motion based on several circumstances. First, Defendant alleges Plaintiff failed to appear for a scheduled independent medical examination (IME) and did not notify anyone that she would be unable to attend the scheduled appointment. Defendant was then required to pay the medical examiner's

\$500.00 fee and schedule another IME.¹ Defendant asks that Plaintiff be sanctioned in the amount of \$500.00 for failure to appear for the IME. The Court finds Defendant's argument to be well-taken, and Plaintiff will be sanctioned in the amount of \$500.00 for her failure to appear.

Defendant next argues that Plaintiff disclosed Dr. Leonberger as her expert witness but has failed to produce any records or reports from Dr. Leonberger despite numerous requests by letter and phone. Defendant requests that the Court strike Dr. Leonberger as Plaintiff's expert witness. The Court finds it may be prejudicial to strike Dr. Leonberger at this time, however, Plaintiff will be required to produce the doctor's records and/or reports within 14 days of the date of this Order.

Finally, Defendant alleges Plaintiff has failed to provide medical authorizations for the treatment she received for depression.² Defendant's motion to compel such authorizations was granted by this Court on July 29, 2005, thus, Plaintiff should have already produced the authorizations to Defendant. Defendant is entitled to the authorizations, and Plaintiff will be required to produce them within 14 days of the date of this Order.

Accordingly,

¹The medical examiner's office policy is not to refund the IME fee when a plaintiff fails to show without any advanced notice.

²Plaintiff claims to suffer from depression as a result of the accident.

IT IS HEREBY ORDERED that Defendant's Motion for Sanctions and to Strike an Expert Witness, [#19], is granted in part and denied in part; Plaintiff is sanctioned in the amount of \$500.00 for her failure to report to a scheduled IME; Plaintiff shall produce the records and/or reports of her expert witnesses within fourteen (14) days of the date of this Order; and Plaintiff shall produce medical authorizations relevant to this cause of action within fourteen (14) days of the date of this Order; Defendant's motion is denied in all other respects.

Dated this 27th day of March, 2006.

A handwritten signature in cursive script, reading "Henry Edward Autrey", written in black ink.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE